

Order

Michigan Supreme Court
Lansing, Michigan

June 20, 2018

Stephen J. Markman,
Chief Justice

156737 & (61)

Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Kurtis T. Wilder
Elizabeth T. Clement,
Justices

MICHIGAN ASSOCIATION OF HOME
BUILDERS, ASSOCIATED BUILDERS AND
CONTRACTORS OF MICHIGAN, and
MICHIGAN PLUMBING AND MECHANICAL
CONTRACTOR ASSOCIATION,
Plaintiffs-Appellants,

v

SC: 156737
COA: 331708
Oakland CC: 2010-115620-CZ

CITY OF TROY,
Defendant-Appellee.

On order of the Court, the motion to file a brief amicus curiae is GRANTED. The application for leave to appeal the September 28, 2017 judgment of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on whether to grant the application or take other action. MCR 7.305(H)(1).

The appellants shall file a supplemental brief within 42 days of the date of this order addressing: (1) whether the creation of a fee surplus generated by an enforcing agency under the Construction Code Act (CCA), MCL 125.1501 *et seq.*, and the use of that surplus to pay for shortfalls in previous years by transfer of the surplus into the city's general fund, violates the constraints of § 22 that fees be reasonable, be intended to bear a reasonable relation to the cost of acts and services provided by the enforcing agency, and be used only for the operation of the enforcing agency or the construction board of appeals, or both; (2) if so, whether appellants have a private cause of action against a governmental subdivision for enforcement of the CCA, MCL 125.1508b(1); (3) whether appellants are "taxpayers" that have standing to file suit pursuant to the Headlee Amendment, Const 1963, art 9, § 32; and (4) if so, whether the challenged fees violate the Headlee Amendment, Const 1963, art 9, § 31. In addition to the brief, the appellants shall electronically file an appendix conforming to MCR 7.312(D)(2). In the brief, citations to the record must provide the appendix page numbers as required by MCR

7.312(B)(1). The appellee shall file a supplemental brief within 21 days of being served with the appellants' brief. The appellee shall also electronically file an appendix, or in the alternative, stipulate to the use of the appendix filed by the appellants. A reply, if any, must be filed by the appellants within 14 days of being served with the appellee's brief. The parties should not submit mere restatements of their application papers.

The Michigan Municipal League, the Michigan Township Association, the Government Law Section of the State Bar of Michigan, and Michigan Realtors are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.



s0613

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 20, 2018

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk